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The rule of law at the national and international levels

Strengthening and coordinating United Nations rule of law activities

Report of the Secretary-General

Summary

In the present report, submitted pursuant to General Assembly resolution 72/119, updates are presented on the assistance provided by the United Nations in relation to the rule of law at the national and international levels during the past 12 months, and a reflection on the progress made on key issues to strengthen the Organization's efforts in support of Member States is provided.

Insights are provided in the present report into mechanisms and practices that promote the effective implementation of international law by Member States, as well as the judicial and non-judicial mechanisms supported by the United Nations at the national level to address impunity for serious crimes under international law.

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I. Introduction

1. In the past year, profound political and security challenges have been seen in all parts of the world, sometimes eroding decades of progress made in securing accountability, transparency and the rule of law. The engagement of the United Nations in the collective efforts to promote the rule of law at the national and international levels has never been more critical. The rule of law is an accelerator towards the realization of the ambitious agenda in the 2030 Agenda for Sustainable Development and its Sustainable Development Goals, and in preventing conflict, sustaining peace and advancing the universal protection of human rights.

2. The United Nations continues to provide rule of law support to Member States in development, fragility, conflict and peacebuilding contexts. The Organization is moving towards a more coordinated and cohesive effort, tightening the development, peace and security and humanitarian nexus and promoting human rights and gender equality.

3. Relevant United Nations departments, agencies, funds and programmes are making significant progress in attaining system-wide strategic coordination and coherence on rule of law engagement and enhancing results, including through the global focal point arrangement for police, justice and corrections.[1] Advances have been made in policy development and implementation, improving joint efforts in countries and expanding partnerships to support national priorities to advance the rule of law.

4. In the previous report of the Secretary-General, however, it was recognized that United Nations support to Member States should evolve at a time when the Organization is improving prevention efforts, reorienting peacekeeping with more focused mandates and enhancing its preparedness to address emerging global threats (see A/72/268). Supporting Member States to achieve equal access to justice for all and respect for the rule of law is a complex and long-term endeavour. The stakes are often high. Situations of vacuum in the rule of law put at risk the social fabric of communities and the sovereignty of Member States.

5. The present report is submitted pursuant to General Assembly resolution 72/119, in which the Assembly requested the Secretary-General to submit his annual report on United Nations rule of law activities, addressing, in a balanced manner, the national and international dimensions of the rule of law. A particular emphasis is placed on efforts to improve the coordination, coherence and effectiveness of those activities.

II. United Nations support and activities to strengthen the rule of law

A. Promotion of the rule of law at the national level

6. The United Nations continued to support Member States on all continents to develop domestic capacities to strengthen the rule of law, some examples of which are presented below. United Nations assistance was provided specifically at the

[1] Established by the Secretary-General in 2012, the global focal point arrangement for the police, justice and corrections areas in the rule of law in post-conflict and other crisis situations has brought together complementary capacities in efforts to improve support for the rule of law on the ground, with a view to preventing the outbreak, escalation, continuation and recurrence of violent conflict. The arrangement is not an entity, but acts as a single entry point for United Nations system-wide rule of law assistance.

request of Member States in alignment with their needs and priorities and consistent with United Nations policy to promote gender equality and human rights and to achieve peaceful and inclusive societies.

7. United Nations peace operations have spearheaded police, justice and corrections work through the current deployment of 11,000 police officers, 205 judicial affairs officers and 367 corrections officers in 12 operations, drawing on rapid deployment capacities. In close collaboration with the United Nations country team, this work is aimed at strengthening the rule of law by protecting civilians and supporting victims' rights, ensuring accountability for the most serious crimes and extending services provided by justice institutions to all populations to advance peace and stability. In non-mission contexts, the United Nations has delivered comprehensive support through its agencies, funds and programmes. The financial and political commitment extended by Member States to this critical work is appreciated.

1. Effective and functioning security, justice and corrections institutions

8. There have been troubling negative trends in all parts of the world relating to the undermining of the independence of the judiciary, including the politicized selection process of judges and limitations on the ability of courts to review the constitutionality of executive decisions. In some cases, the expansion of mandates of law enforcement agencies and security forces have led to violations of citizens' rights. The United Nations rule of law assistance is critical to help to reverse these trends, restore the specific functions of justice institutions and improve the delivery of justice services to populations.

9. In a number of countries, such as Afghanistan, Honduras, Eritrea, Nepal, Saudi Arabia and Sri Lanka, the United Nations supported the development of legislation and policies to prohibit torture in interrogation and detention and promoted international human rights norms and standards in the administration of justice. In Mali, the Organization supported the development of legal frameworks that comply with human rights standards, such as the national border security policy and the strategy to prevent and combat violent extremism and terrorism.

10. In Liberia, an innovative joint programme with the United Nations facilitated the country's transition from peacekeeping to longer-term development support through the United Nations country team. It combines the United Nations peace and development capacities with pooled funding and supports the security sector to address conflict risks by collaborating with the early warning centre of the Economic Community of West African States in Monrovia. Part of the United Nations legacy is the improvement in people's access to justice and corrections services; notably, the Supreme Court of Liberia played a pivotal role in guiding the country to peacefully address electoral disputes.

11. In Guinea, authorities established mechanisms to ensure civilian control of security forces and to facilitate collaboration between judicial actors and civil society, resulting in the adjudication of 953 cases in priority districts and the release of 580 pretrial detainees (45 women). In Lebanon, the United Nations supported the authorities to launch their first training curriculum for 262 law enforcement personnel on conflict management, moving towards a community-oriented policing approach centred on people's security needs. In Somalia, a joint framework provides support to rule of law institutions within the broader United Nations effort to develop federal and state-level consensus on a justice architecture, resulting in a justice and corrections model.

12. In the Central African Republic, the United Nations supported internal security governance reforms to improve the protection of civilians, while the authorities

significantly increased the recruitment of vetted key personnel within the justice and security sectors, including outside the capital. In Mali, the Organization supported security sector efforts to carry out community-oriented policing, the extension of prison services and the return of judicial authorities in the north to help to restore confidence in State institutions.

13. In Haiti, the United Nations helped to strengthen accountability in the corrections sector by establishing an Audit and Evaluation Unit, which has been instrumental in improving conditions for 8,339 inmates. United Nations support has led to an increase in functioning provincial courts in Afghanistan, from 259 in 2004 to 420 in 2018, and in the number of judges, from 1,254 in 2004 to 2,169 in 2017.

14. In the Democratic Republic of the Congo, the United Nations initiative on prolonged detention saw the ratio of pretrial detainees to convicted prisoners fall below 50 per cent in Bunia prison for the first time, against a national average of 75 per cent. In South Sudan, processes on the review of cases and the release of detainees have become more efficient, with the daily average number of detainees decreasing from 50 in 2016 to 15 currently.

15. With regard to legislative reforms, the new Penal Code entered into force in Afghanistan, and laws to combat corruption were enacted. In the Sudan, the Public Prosecutions Act was adopted to reinforce the independence of the prosecution service. In Kenya, the United Nations is supporting the development of the Children's Act, which is based on the recommendations of the Committee on the Rights of the Child to divert children from prison sentences. In Myanmar, the United Nations supported the drafting of interministerial procedures to coordinate and respond effectively to child abuse.

2. Security and armed violence reduction

16. This area of work is aimed at curbing the excessive use of force and human rights violations and abuses, including by militias and armed gangs, and addressing the lack of accountability for the misconduct of security forces. The approach of the United Nations in supporting security and armed violence reduction through a multi-stakeholder and inclusive format is key to finding a sustainable solution to security and safety.

17. In Iraq, the United Nations prioritized a balanced and inclusive approach to security sector transformation, improving State security and the provision of justice, strengthening public trust and reflecting the voice of civil society. In Bosnia and Herzegovina, the Organization supported community safety through the building of capacities and the coordination of mine action work, sustainable ammunition life cycle management and the implementation of a strategy on small arms and light weapons.

18. In El Salvador, United Nations support to community security has contributed to a significant decline in violence, with 60 homicides per 100,000 inhabitants in 2017, compared to 103 in 2015. In Guatemala, the development of people-centred community security approaches is intended to generate more opportunities for employment, reintegration and rehabilitation after sentences are served. In some areas affected by Boko Haram in Nigeria, the United Nations helped to establish eight regional community security and justice platforms, bringing together State actors and communities to implement security plans to stabilize communities pending the re-establishment of justice and security institutions. In Colombia, the Organization assisted local authorities in adopting a holistic approach to reduce crime and violence, particularly in urban areas with high rates of criminality.

19. In Pakistan, to improve community security and increase public confidence in the police, the United Nations supported 54 model police stations to enable police and communities to conduct dialogue. Eighty per cent of respondents to a survey found the police more accessible where model police stations exist, with more women benefiting from services. In South Sudan, the Organization improved the security of internally displaced persons seeking protection in the United Nations protected sites, enabling the investigation of serious incidents in those sites. The United Nations assisted the Government of Somalia to develop a national strategy to mitigate the threat of improvised explosive devices and to protect people in contaminated areas by coordinating mine action activities.

3. Accountability at the national level for serious crimes under international law

20. Some Member States have taken concrete steps to ensure accountability for serious crimes under international law, including for conflict-related sexual violence, through domestic judicial efforts. United Nations support has been instrumental in those efforts in situations in which progress has generally been slow and often compounded by a lack of political will, inadequate resources and victim and witness protection, and widespread impunity for crimes committed by both State and non-State actors.

21. In the Central African Republic, the United Nations continued to support the Special Criminal Court in the fight against impunity, with key personnel and other essential strategies and legislation in place, including a prosecution strategy based on a mapping by the United Nations of human rights violations. The capacity of judicial authorities has improved, resulting in the trials and convictions of war criminals. A specialized unit established to respond rapidly to sexual violence crimes, known as "UMIRR", was operationalized in Bangui. The Organization assisted in the arrest of high-profile members of armed groups to prevent the occurrence of destabilizing crimes and handed 225 suspects to the authorities.

22. The Democratic Republic of the Congo accelerated trials in the military justice system with the assistance of the Prosecution Support Cells and delivered 235 convictions, including of senior military officials. More female magistrates were deployed to the eastern part of the country. A total of 1,726 cases of sexual and gender-based violence were registered and 643 judgments were delivered. Several landmark trials resulting in the convictions of senior leaders for rape and sexual slavery in South Kivu Province are to be welcomed.

23. In Guinea, dedicated expertise was deployed to the national panel of judges investigating human rights violations occurring in 2009, including sexual violence, leading to the indictment of a former Head of State and 16 other individuals. The Government has recently formed a steering committee to organize their trials. In Darfur, Sudan, the Office of the Special Prosecutor for Crimes in Darfur has successfully prosecuted ex-combatants of armed movements, but notably there has been no investigation of conflict-related sexual violence.

4. Other transitional justice initiatives

24. The demand for justice for past human rights violations and abuses remains a priority for communities recovering from conflicts and crises. The United Nations approach to supporting transitional justice has taken into consideration political sensitivities and has been inclusive and victim-centred, with the participation of women increasing.

25. In Colombia, the establishment of the Special Jurisdiction for Peace, the Truth Commission and a missing persons search unit, which are gender-balanced and inclusive, is to be welcomed. The Commission has identified approximately 7,000

cases, including cases of sexual and gender-based violence and enforced disappearance, and collective reparation plans are aimed at meeting the needs of 20,486 victims of armed conflict. In the Gambia, the United Nations assisted authorities to understand people's grievances and aspirations and supported South-South exchanges on lessons learned, resulting in the establishment of a truth, reconciliation and reparations commission that complies with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). In Guatemala, United Nations support to the prosecution services to gather evidence has led to the identification of 1,856 conflict-affected victims. In Kosovo,[2] the Organization supported the identification of 1,658 missing persons and the establishment of the first multi-ethnic resource centre.

26. In Libya, assistance was provided to address tensions between the Tawergha and Misrata communities, including by facilitating high-level dialogues on the return of internally displaced persons and reparations for those persons to advance the transitional justice component of the local agreement. In the Plurinational State of Bolivia, the United Nations facilitated the drafting of a law by civil society and victims that led to the operationalization of the truth commission in 2017. In South Sudan, the Organization supported the establishment of victims' groups within protection of civilians sites to provide psychosocial services and supported consultations on the establishment of a truth and reconciliation commission as part of the peace agreement. In Tunisia, the United Nations continued to support the specialized chambers to adjudicate referred cases, and the Truth and Dignity Commission, which successfully organized 8 public hearings and concluded 46,302 individual hearings, including testimonies from 9,934 women.

5. Access to justice, in particular for marginalized groups

27. Recognizing that weak rule of law institutions undermine protection and limit inclusion, United Nations development and humanitarian actors are partnering to achieve solutions that are balanced to benefit refugees, internally displaced persons, stateless persons and host communities. In Lebanon, for example, a needs assessment helped to standardize efforts of the municipal police as early responders to address tensions among Syrian refugees and host communities, and in Myanmar, the United Nations supported the implementation of a needs assessment on housing, land and property rights for internally displaced persons and persons at risk of statelessness.

28. In Darfur, Sudan, United Nations support has been instrumental in the peaceful resolution of land disputes and intercommunal conflict among marginalized communities, including through 114 rural courts and the training of their judges. In Bosnia and Herzegovina, the Organization supported national partners to improve a non-discriminatory, free legal aid system for indigent persons, and in 2017 supported the provision of legal aid to 18,825 beneficiaries (48 per cent women). In the Democratic Republic of the Congo, prison inspections and legal aid reduced the rate of imprisonment and led to the release of 1,200 pretrial detainees. In Guinea-Bissau, five Access to Justice Centres provided free legal aid to 10,097 people (21 per cent women) in 2017, an increase of 14 per cent from 2016.

29. In Jordan, the United Nations helped 200 women and girls to access legal advice and psychological counselling through legal clinics established in communities hosting Syrian refugees. In Kyrgyzstan, the Organization supported 11 free legal aid centres to assist 4,539 people and provided training for 1,896 justice actors, including on the rights of people with disabilities. In Timor-Leste, the United Nations supported access to justice clinics, enabling 227 people (50 women) in rural areas to access free

[2] References to Kosovo shall be understood to be in the context of Security Council resolution 1244 (1999).

legal aid services. Mobile courts operated in municipalities without permanent courts, resolving 454 cases involving 971 users (312 women) in 2017. In Cambodia and Viet Nam, the Organization developed training tools for judges and prosecutors on addressing child exploitation cases, and in the Lao People's Democratic Republic, a mobile aid project provided assistance to 30 victims of human trafficking.

6. Security and justice for women and girls

30. Improving women's access to justice is a priority for the Organization to address chronic inequalities that many women and girls experience in their daily lives. The underlying circumstances enabling violence against women, such as mass displacement and negative coping mechanisms that often lead to, for instance, early or forced marriages, must be addressed. Member States should also take steps to immediately address instances of incitement and encouragement of gender-based violence, particularly by senior State officials.

31. Many States continued to make progress in providing security and justice for women. In Afghanistan, a year after piloting the violence against women courts in Kabul Province, the Supreme Court established similar courts in 15 provinces. By 2017, those courts had issued verdicts in 164 cases. In addition, specialized prosecution units have been established within the Attorney General's offices in 18 provinces. The number of female judges has doubled to 213 since 2014, there has been a 28 per cent increase in female police officers from 2016, and evidence shows that more survivors accessed these specialized facilities and filed complaints. In the State of Palestine, through United Nations support, the number of judges specializing in cases of violence against women has doubled. The United Nations joint programme in Somalia supported 4,633 survivors through one-stop rape crisis centres by providing safe houses and essential services.

32. The military operation to liberate Iraq from Islamic State in Iraq and the Levant (ISIL) has led to a surge in the number of displaced persons. The United Nations collaborated to provide basic services in shelters, including legal aid for victims of sexual and gender-based violence. In Latin America, the Organization is helping judicial actors to address the reprehensible phenomena of "femicides" and wrongful gender stereotyping in the judiciary.

33. In Mali, the United Nations supported a one-stop centre in Bamako to provide medical, psychological, economic and legal assistance to survivors; the assignment of 40 police officers in Gao and Timbuktu has facilitated gender-responsive services. In the north and centre of Mali, sensitization training is helping traditional and religious leaders to reconsider practices that promote violence against women. A similar one-stop centre established in Ramallah, State of Palestine, has received 2,224 cases. In Nepal, it is to be hoped that a United Nations-supported women's mentorship programme and internship funding for female lawyers will introduce more female practitioners in the legal system. Through United Nations assistance in Ukraine, more than 300 survivors received legal and psychological support.

7. Anti-corruption

34. Corruption is a destructive practice, leading to serious political and social consequences and eroding trust between a State and its people. Corrupt practices often affect the integrity and impartiality of justice systems and the transparency of legislative processes. United Nations support to Member States to strengthen oversight mechanisms and combat corruption has been notable, but needs to be matched with equal commitment by Governments.

35. Established in 2016, the Afghanistan Anti-Corruption Justice Centre had, by April 2018, completed 34 investigations resulting in 101 convictions. The

Government also adopted a national strategy requiring key institutions to articulate plans for reform. In 2017, the Liberia Anti-Corruption Commission processed five corruption cases. In Haiti, the Government reported that measures had been taken in relation to 35 per cent of 367 corruption investigations. In partnership with the World Bank, the United Nations has helped Tunisia and Nigeria recover millions of dollars lost as a result of corrupt activities.

36. The United Nations intensified its assistance to improve investigations of complex corruption cases in Ecuador, Egypt, Myanmar, the State of Palestine and small island developing States in the Pacific. The International Commission against Impunity in Guatemala continued to provide support to the Office of the Public Prosecutor of Guatemala in high-profile investigations into links between illegal groups and public officials and helped to reinforce the rule of law by exposing corruption and proposing legal reforms.

8. Strengthening national institutions to prevent violence and combat terrorism and crime

37. Since the territorial defeat of ISIL in Iraq and the Syrian Arab Republic, the United Nations has prioritized the prevention of the resurgence of violence from returning fighters and further acts of terrorism through criminal justice approaches such as preventing radicalization to violence in prisons and initiatives that encourage social inclusion, mediation and access to jobs and services, especially for youth and women. The Organization has finalized 14 teaching modules for higher academic institutions on linkages between organized crime and terrorism, cybercrime and gender.

38. The United Nations has trained 4,000 criminal justice officials in key regions affected by terrorism and helped Burkina Faso, Chad, Mali, the Niger and Nigeria to establish specialized counter-terrorism units with cross-border coordination. The Organization trained law enforcement and security officials on the protection of human rights while conducting counter-terrorism operations in Cameroon, Iraq, Jordan, Mali, Nigeria and Tunisia. For instance, Malian authorities operationalized a specialized unit to investigate terrorism and transnational organized crime, which destabilizes and hinders peace processes, leading to the investigation of 300 cases, with 19 cases tried before national courts.

B. Strengthening the administration of justice within the Organization

39. The internal system of administration of justice is built to guarantee the observance of the rule of law within the Organization and for its staff members. As at 30 June 2018, the United Nations Dispute Tribunal had issued 1,594 judgments and the United Nations Appeals Tribunal had issued 839.

C. Promotion of the rule of law at the international level

1. Codification, development and promotion of an international legal framework

40. The United Nations continues to facilitate the codification, development and promotion of an international legal framework of norms, standards and mechanisms on a vast array of subjects, including the maintenance of international peace and security, the peaceful settlement of disputes, accountability for international crimes and environmental and human rights protection.

(i) Codification and development of international instruments, norms, standards and rules

41. The Sixth Committee of the General Assembly considered a number of items relating to the codification and development of international law during the seventy-second session of the Assembly, including on the expulsion of aliens, the effects of armed conflicts on treaties and the responsibility of international organizations. In its consideration of the item on the report of the International Law Commission on the work of its sixty-ninth session, as reflected in General Assembly resolution 72/116, the Committee noted the completion of the first reading of the draft articles on crimes against humanity with the adoption of the entire set of draft articles on the topic and took note of the Commission's decision to include the topic "Succession of States in respect of State responsibility" in its programme of work.

42. The International Law Commission held its seventieth session in New York and in Geneva. It had eight substantive topics on its agenda. In support of the work of the Commission, the Secretariat prepared a memorandum on ways and means of making the evidence of customary international law more readily available.

43. With respect to international law of the sea, three additional States became party to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, bringing the total number of States parties to 89.

44. In its resolution 72/249, the General Assembly decided to convene an Intergovernmental Conference, under the auspices of the United Nations, to consider the recommendations of the Preparatory Committee established by General Assembly resolution 69/292: Development of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction on the elements and to elaborate the text of an international legally binding instrument under the United Nations Convention on the Law of Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, with a view to developing the instrument as soon as possible. The Conference will meet for four sessions; the first will be held in September 2018, the second and third in 2019 and the fourth in 2020.

45. At its fifty-first session, in 2018, the United Nations Commission on International Trade Law (UNCITRAL) approved a draft convention on international settlement agreements resulting from mediation and submitted the draft to the General Assembly with a recommendation to adopt, on the basis of the draft, a United Nations convention on international settlement agreements resulting from mediation. At the same session, UNCITRAL adopted the UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation, 2018 (amending the UNCITRAL Model Law on International Commercial Conciliation, 2002), the UNCITRAL legislative guide on key principles of a business registry and the UNCITRAL Model Law on Recognition and Enforcement of Insolvency-related Judgments, together with its guide to enactment.

46. There were more than 40 legislative actions with respect to UNCITRAL texts, including four accessions to the United Nations Convention on Contracts for the International Sale of Goods, two accessions to the United Nations Convention on the Use of Electronic Communications in International Contracts and one ratification of the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea.

47. The United Nations Convention against Transnational Organized Crime currently has 189 States parties, and the United Nations is assisting Governments to harmonize national legal frameworks with the Convention and the Protocols thereto, including through a knowledge management portal. There were three ratifications of or accessions to the International Covenant on Economic, Social and Cultural Rights; two ratifications of or accessions to the International Covenant on Civil and Political Rights; two ratifications of or accessions to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and five ratifications of or accessions to its Optional Protocol; and five ratifications of or accessions to the Convention on the Rights of Persons with Disabilities.

(ii) Promotion of international instruments, norms, standards and rules

48. The United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, established by the General Assembly in 1965, is aimed at contributing towards a better knowledge of international law so as to strengthen international peace and security and promote cooperation among States. The Programme continued its activities by issuing legal publications, by organizing and conducting the International Law Fellowship Programme as well as three regional courses in international law for Africa, Latin America and the Caribbean and Asia and the Pacific and by adding 42 lectures on diverse topics of international law to the United Nations Audiovisual Library of International Law.

2. International and hybrid courts and tribunals and non-judicial accountability mechanisms

(i) International Court of Justice

49. During the period under review, there were a number of significant developments before the International Court of Justice. In its resolution 71/292, the General Assembly requested an advisory opinion from the Court on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965. The Assembly posed two distinct questions: (a) on the lawfulness of the completion of the process of decolonization of Mauritius; and (b) on the consequences under international law arising from the continued administration by the United Kingdom of Great Britain and Northern Ireland of the Chagos Archipelago. Pursuant to Article 65, paragraph 2, of the Statute of the Court, the Secretariat collected and transmitted to the Court a dossier of documents that are likely to assist with these questions. The Court invited the Member States and the organizations to present their written statements on the questions. The oral hearings are due to take place.

50. With regard to the long-standing border controversy between Guyana and the Bolivarian Republic of Venezuela, after having carefully analysed developments in the good offices processes and concluded that significant progress had not been made towards arriving at the full agreement for the solution of the issues between the two States, the Secretary-General announced on 30 January 2018 that he had chosen the International Court of Justice as the means now to be used for the solution of the controversy pursuant to the Geneva Agreement of 1966.

51. At the same time, the Secretary-General also concluded that Guyana and the Bolivarian Republic of Venezuela could benefit from the continued good offices of the United Nations through a complementary process established on the basis of the powers of the Secretary-General under the Charter of the United Nations. Following that decision, Guyana filed an application with the Court on 29 March 2018, asking it to confirm the legal validity and binding effect of the arbitral award of 1899.

52. In addition to the two above-mentioned pending cases, there are currently 14 cases on the list of the International Court of Justice. Member States are urged to continue to broaden their recognition of the compulsory jurisdiction of the Court to solve their differences by peaceful means.

(ii) International Tribunal for the Law of the Sea and arbitral tribunals and conciliation commissions established pursuant to the United Nations

Convention on the Law of the Sea

53. In September 2017, the International Tribunal for the Law of the Sea delivered its judgment in the *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*. The Tribunal continued to consider the dispute in *The M/V "Norstar" Case (Panama v. Italy)*.

54. Arbitral and conciliation proceedings concerning maritime issues were also conducted during the reporting period. In June 2017, an arbitral tribunal issued a final award in which it ruled on the delimitation of the maritime boundaries between Slovenia and Croatia and determined certain other maritime issues. In May 2018, the Conciliation Commission recorded the agreement between Timor-Leste and Australia regarding their maritime boundary in the Timor Sea. A comprehensive package agreement had been reached between the parties in August 2017, which was later formalized in the maritime boundaries treaty signed at United Nations Headquarters in the presence of the Secretary-General and the Chair of the Conciliation Commission in March 2018.

(iii) International Criminal Court and other international courts and tribunals

55. The United Nations continued to cooperate with the International Criminal Court by providing administrative, legal and logistical support in accordance with the Relationship Agreement. The Organization assisted the Court through the sharing of information and evidence, the provision of transportation and security support for the Court's field operations and the facilitation of interviews and testimonies of United Nations personnel.

56. On 17 March 2018, the Philippines deposited with the Secretary-General its notification of withdrawal from the Rome Statute of the International Criminal Court, which is due to come into effect on 17 March 2019. The withdrawal of Burundi, deposited in 2016, entered into force on 27 October 2017, reducing the number of States parties to the Rome Statute to 123. Panama notified the Secretary-General on 6 December 2017 of its ratification of the amendments to the Rome Statute on the crime of aggression, bringing the total number of States that have ratified the amendments to 35.

57. At the sixteenth session of the Assembly of States Parties to the Rome Statute of the International Criminal Court, which was held in New York from 4 to 14 December 2017, States parties decided to activate the Court's jurisdiction over the crime of aggression as of 17 July 2018. The Assembly also adopted a resolution on amendments to article 8 of the Rome Statute, adding the following three war crimes to the jurisdiction of the Court: employing microbial, biological or toxin weapons; employing weapons that injure by fragments undetectable by X-rays; and employing laser weapons specifically designed to cause blindness.

58. During the reporting period, the International Criminal Court, inter alia, issued a warrant for the arrest of Mahmoud Mustafa Busayf Al-Werfalli, who is alleged to have directly committed and to have ordered the commission of murder as a war crime in Libya. Another warrant was issued for the arrest of Al Hassan Ag Abdoul Aziz Ag

Mohamed Ag Mahmoud, allegedly responsible for crimes against humanity. He subsequently surrendered and was transferred to the Court on 31 March 2018. In October 2017, the Prosecutor opened an investigation regarding crimes within the jurisdiction of the Court allegedly committed in Burundi or by nationals of Burundi outside Burundi since 26 April 2015 until 26 October 2017 (date of the entry into effect of the withdrawal of Burundi from the Rome Statute). At the request of the Court, the United Nations provided support in relation to the two situations.

59. In November 2017, the International Tribunal for the Former Yugoslavia delivered its judgments on the *Mladić* trial and the *Prlić et al.* appeal, marking the completion of its judicial work. Following a closing ceremony on 21 December 2017 attended by the Secretary-General, the Tribunal formally closed on 31 December 2017, having accounted for all 161 persons who were indicted for genocide, war crimes or crimes against humanity. The Tribunal was a pioneer of the contemporary system of international criminal justice and has made remarkable contributions to the consolidation of the culture of accountability.

60. The International Residual Mechanism for Criminal Tribunals delivered its first ever appeal judgment at its branch in The Hague, Netherlands, in the *Šešelj* case, in April 2018. The *Stanišić* and *Simatović* trial and appeal proceedings in the *Karadžić* and *Mladić* cases are ongoing. At its branch in Arusha, United Republic of Tanzania, the Residual Mechanism remains seized of a motion for review of judgment in the *Ngirabatware* case. The Residual Mechanism is monitoring the five ongoing cases referred by the International Criminal Tribunal for Rwanda to the national courts of France and Rwanda. The Office of the Prosecutor continues its efforts to locate and arrest the remaining fugitives. The Security Council has completed its review of the progress of the work of the Residual Mechanism since the conduct of its previous review in December 2015.

61. In June 2017, the Extraordinary Chambers in the Courts of Cambodia heard closing statements in the second trial involving Khieu Samphan and Nuon Chea. The appeal against the dismissal of case 004/01 remains pending, as do the investigations in the other cases. The Special Tribunal for Lebanon continues with the trial in absentia of four persons accused of perpetrating the attack that killed Rafik Hariri and 21 other persons in 2005. The Residual Special Court for Sierra Leone addressed matters related to the detention of persons convicted by the Special Court for Sierra Leone, applications for conditional early release and requests for assistance from national authorities.

62. Substantial progress was made in 2017 in the provision by the United Nations of technical assistance to the African Union Commission and the Transitional Government of National Unity of South Sudan for the establishment of the Hybrid Court for South Sudan to address serious crimes committed in South Sudan since December 2013. The constitutive legal instruments for the Hybrid Court are awaiting signature by the African Union and the Government of South Sudan.

(iv) Other international accountability mechanisms

63. The International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011 commenced its work in 2017, as reflected in its first report to the General Assembly, issued in February 2018 (see A/72/764). The Head and the Deputy Head of the Mechanism were appointed in July and November 2017, respectively. Since then, further steps have been taken to establish a functioning office, contribute to the accountability process, engage with stakeholders and other interlocutors and establish outreach capabilities.

64. By its resolution 2379 (2017), the Security Council requested the Secretary-General to establish an investigative team, headed by a special adviser, to support domestic efforts to hold ISIL accountable by collecting, preserving and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide committed by ISIL in Iraq. Pursuant to paragraph 4 of the resolution, terms of reference acceptable to the Government of Iraq for the operation of the Investigative Team were submitted to the Council on 9 February 2018 and approved by the Council on 13 February 2018. The Secretary-General is undertaking the steps, measures and arrangements necessary for the speedy establishment and full functioning of the Investigative Team, including the establishment of a trust fund to receive voluntary contributions from Member States, which will supplement the regular budget funding. On 30 May 2018, the Secretary-General appointed the Special Adviser to lead the Investigative Team.

(v) International commissions of inquiry

65. The comprehensive documentation of alleged violations and the preservation of evidence are essential to the pursuit of accountability and the fight against impunity. The Human Rights Council has mandated independent commissions of inquiry, for example, in Burundi, the Democratic Republic of the Congo, Myanmar, South Sudan and the State of Palestine, and the United Nations has continued to support these commissions. This included an independent, international fact-finding mission to establish the facts and circumstances of human rights violations in Myanmar, in particular in Rakhine State, to which the mission has yet to gain access, and a team of international experts to collect and preserve information and to forward conclusions to the judicial authorities of the Democratic Republic of the Congo concerning the events in the Kasai region.

III. Coordination and cohesion in United Nations rule of law assistance

A. Improving the coordination and effectiveness of United Nations support

66. The global focal point arrangement has been exemplary in offering a model for coordinated and coherent delivery of rule of law assistance in many challenging settings. It provides system-wide support to host countries through joint assessments and analyses, joint planning processes, the rapid deployment of expertise and joint resource mobilization efforts for country programmes. To date, 51 global focal point assessments have been undertaken in conflict-affected contexts, with justice experts deployed to Burkina Faso, the Central African Republic, Sierra Leone, Somalia and Yemen. The arrangement has supported the development of joint rule of law programmes in the Central African Republic, the Democratic Republic of the Congo, Guinea-Bissau, Haiti, Liberia, Libya, Mali, Somalia, Darfur and Kosovo.

67. In Haiti, the global focal point supported the transition from a peacekeeping mission to the United Nations Mission for Justice Support in Haiti (MINUJUSTH) and transition planning to ensure that the United Nations country team can continue to support national security and justice institutions. In Liberia, the United Nations joint programme contributed to a smooth transition from the peace operation to the country team, including a focus on strengthening coordination across the justice sector.

68. An independent review of the global focal point arrangement was commissioned in December 2017 to examine the progress, achievements and challenges of the

arrangement and to consider its preparedness and capacities to support the sustaining peace agenda and the 2030 Agenda for Sustainable Development. In the review it was found that since its inception in 2012, the arrangement has contributed to more coherent United Nations assistance in relation to the rule of law, leveraged comparative advantages and positioned the United Nations during mission transitions, and reduced duplication and improved efficiencies in the field. The need for a changing global focal point for a changing United Nations was emphasized, with proposals to increase the engagement of senior leadership and partners, to include security sector reform work and to ensure the provision of adequate administrative and financial resources to respond to increasing demands in mission and non-mission settings.

69. In February 2018, the Secretary-General signed the new United Nations Global Counter-Terrorism Coordination Compact as an agreed framework between the Secretary-General and the heads of the United Nations entities, the International Criminal Police Organization and the World Customs Organization. The Compact will strengthen United Nations action in counter-terrorism and to overcome system-wide coordination and coherence challenges.

70. The Inter-Agency Coordination Group against Trafficking in Persons has continued to make progress in facilitating a holistic and comprehensive approach to addressing trafficking in persons and migrant smuggling. The Peacebuilding Fund has contributed significantly to United Nations rule of law planning, and collaboration with the global focal point has been substantive. For example, positive results have been seen in Liberia at the level of political engagement around identified peacebuilding priorities on security sector development and the strengthening of the rule of law.

71. In advancing United Nations efforts on the rule of law in a coordinated and collaborative manner, the Rule of Law Coordination and Resource Group will continue to bring together partners across the United Nations on a range of key issues that have an impact on peace and security, human rights and development. The Rule of Law Unit in the Executive Office of the Secretary-General, while guiding and aligning the Organization's rule of law assistance to achieve strategic prevention, peace and security and development goals, will continue to engage policymakers and Member States and provide coordination and secretariat services in support of the Group.

B. Proposal on subtopic for the Sixth Committee

72. Member States may benefit from an in-depth discussion on the means to establish a rules-based international legal order to help to resolve intra-State and inter-State conflicts. As requested by the Sixth Committee, the following subtopics are suggested:

(a) The role of international and regional organizations, including bodies of legal experts, in promoting the rule of law;

(b) Enhancing the rule of law by strengthening the cooperation between the Sixth Committee of the General Assembly and the International Law Commission;

(c) Promoting accountability for serious crimes under international law at the domestic level;

(d) Implementation of the rule of law elements of the 2030 Agenda for Sustainable Development and sharing of best practices.

IV. Conclusions and observations

73. The United Nations and Member States have made progress in addressing the issues raised in section V of the previous report of the Secretary-General. While the Organization is pursuing further improvements, peace operations are better organized to support the implementation of Security Council mandates on the rule of law, define areas of focus and establish clear benchmarks to evaluate progress. Measures have been adopted to ensure that peace operations are delivering results, including through closer linkages with programmatic entities of the United Nations country team. In all United Nations efforts, the achievement of results on gender equality remains a priority and will entail improved gender analyses, women's participation and predictable funding.

74. Strategic reviews were conducted in eight major peacekeeping operations in 2017/18, including as part of the Secretary-General's peace and security reform agenda, leading to a reorientation of mission priorities from long-term stabilization to protection of civilians and supporting political processes and peace agreements. For example, in South Sudan, the Security Council requested the mission to provide technical assistance and advice on the investigation and prosecution of serious crimes at the national level. In Haiti, MINUJUSTH combines technical expertise, including the good offices of the Secretary-General, with advocacy to create political space for rule of law reforms. The United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) is mandated to support the rule of law and security sector reform in the implementation of the 2015 peace agreement.

75. The Secretary-General has initiated a comprehensive transition strategy for the United Nations to ensure that planned transitions are implemented early and carefully, assess the preparedness of the United Nations for the transition to a non-peacekeeping context and address challenges and risks to the implementation of a successful transition in order to achieve sustainable development. The Secretary-General will continue to use strategic reviews and assessments of transition contexts to adopt a system-wide approach and to chart a rule of law vision beyond the departure of a peace operation, an approach recently taken in the strategic review of the African Union-United Nations Hybrid Operation in Darfur. However, these efforts have not always been sufficient to address the funding gaps faced by the United Nations country team in the transition and post-transition phases of peace operations, which often remain complex and challenging. Member States are strongly encouraged to remain financially and politically engaged in these contexts to help to identify innovative ways of working and partnerships that could help to bridge the projected critical gaps in political and security support to the country after mission drawdown.

76. In relation to sustainable resources, programmatic funding from mission budgets is an added tool for peacekeeping operations to effectively advance the delivery of mandates on the rule of law and to facilitate transitions, often preventing gaps in United Nations delivery as missions draw down. In Haiti, for instance, MINUJUSTH supports, through its programmatic funds, the progressive and clearly benchmarked transition to the United Nations country team and development actors over its projected two-year lifespan. In Mali, programmatic funding has supported a specialized investigations unit, while in the Democratic Republic of the Congo, the Organization used programmatic funding to reinforce security in priority prisons. Programmatic funding has been used to catalyse additional international assistance in the establishment of the Special Criminal Court in the Central African Republic.

77. International treaties are the cornerstone of the global system of harmonizing international relations and should be implemented properly in the struggle against emerging threats to political and economic stability and transnational and

international crime. As the International Court of Justice is the principal judicial organ of the United Nations, Member States are encouraged to accept the compulsory jurisdiction of the Court and to make greater use of the Court and other international courts and tribunals to help to settle and avoid the escalation of their disputes.

78. It is worth reiterating the primary obligation of Member States to comprehensively and genuinely investigate and prosecute serious crimes under international law committed within their jurisdiction and to call upon the United Nations and other partners for assistance, as necessary. Although the progress made in a number of situations articulated in the present report is to be welcomed, many others lack credible and efficient accountability processes at the national level. The absence of or delayed justice for victims and their families often prolongs conflicts, generates frustration and retaliation among communities and obstructs national reconciliation. The deaths of too many United Nations peacekeepers in recent years is also saddening. All necessary measures must be taken to ensure that perpetrators of attacks against peacekeepers are brought to justice.

79. There are lessons that can be drawn from the experiences of international accountability mechanisms. Improving efficiency and reducing operational costs remain essential, since finding resources to support accountability mechanisms sustainably remains a serious challenge as the lack of adequate funding puts at risk the orderly conduct of judicial processes. In this regard, the length of proceedings may have a negative impact on funding by Member States over time and should be reduced without compromising the proper administration of justice. It is to be noted, however, that achieving justice for victims and accountability for serious crimes is a long-term process. Although the General Assembly continues to cover some of the shortfalls in voluntary funding for tribunals through subventions, it is worth reiterating that voluntary funding is not appropriate for international justice mechanisms. Member States are encouraged to engage with the Secretariat before intergovernmental organs take decisions on establishing international accountability mechanisms. This would help to ensure that the Secretariat can respond appropriately and that the framework for the establishment of any such mechanism, and the mechanism itself, conform with applicable United Nations standards regulating these matters, which include a policy against such mechanisms sharing evidence for use in criminal proceedings in which capital punishment could be imposed or carried out.

80. In this regard, it is worth reiterating that respect for fundamental human rights in rule of law assistance is an essential part of United Nations support. As emphasized in the yearly supplement of the Secretary-General to the Human Rights Council for 2017 on capital punishment and the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty (A/HRC/36/26), the imposition of the death penalty is increasingly regarded as being incompatible with fundamental tenets of human rights. It is worth reiterating the recommendation that States that continue to impose and implement death sentences establish a moratorium with a view to abolishing the death penalty.

81. The United Nations continued to strengthen and create partnerships as part of its efforts to enhance the coordination and clarity of roles with partners on rule of law support activities. In 2017, for instance, in the Central African Republic, the first joint United Nations-European Union security sector reform support plan was signed and the African Union Commission and the Mine Action Service of the United Nations signed an agreement to collaborate on mine action activities. Considering its expanding membership and capacity, the Inter-Agency Coordination Group against Trafficking in Persons has the potential to enhance partnerships with other cooperation mechanisms in the international response to trafficking in persons and continues to consider options to collaborate with key initiatives, such as Alliance 8.7,

the Task Team on Anti-trafficking in Humanitarian Action and the Global Partnership to End Violence against Children.

82. The efforts of the United Nations in evaluating the impact of its assistance and providing tools and guidance to the United Nations system include *A Practitioner's Toolkit on Women's Access to Justice Programming*, issued in March 2018 to further guide technical assistance on gender-responsive rule of law support; the "Handbook on children recruited and exploited by terrorist and violent extremist groups: the role of the justice system"; the "Resource book on the use of force and firearms in law enforcement" to help security officers to comply with human rights standards; and the "Handbook on anti-corruption measures in prisons". Member States are strongly encouraged to use these tools to improve performance in the justice and security sectors.

83. Finally, it is encouraging that Member States are making incremental but steady progress in the implementation of the rule of law aspects of the 2030 Agenda. The United Nations continued to provide the international community with data sets and supported Member States in Latin America, Asia and Africa with methodological guidance on the measurement of relevant indicators. In Somalia, the United Nations launched a monitoring and evaluation project for Sustainable Development Goal 16 to measure progress of the country in rule of law and human rights-related efforts. The Organization is strengthening national capacities to meet the targets of Goal 16 in Malawi, Pakistan, Sierra Leone, Somalia and Tajikistan, among other countries, by improving the coordination and delivery of justice for all by mobilizing the private sector and civil society to fulfil the promise to leave no one behind.

84. The meeting in 2019 of the high-level political forum on sustainable development will have as its theme "Empowering people and ensuring inclusiveness and equality" and will be held as part of the voluntary review mechanisms of the 2030 Agenda. An increasing number of States are expected to volunteer for these reviews, including on reporting on progress in implementing Sustainable Development Goal 16 and other targets related to the rule of law. The General Assembly is urged to continue to provide guidance to the United Nations on supporting Member States in this regard, and Member States are called upon to help each other to achieve the rule of law targets in the 2030 Agenda.